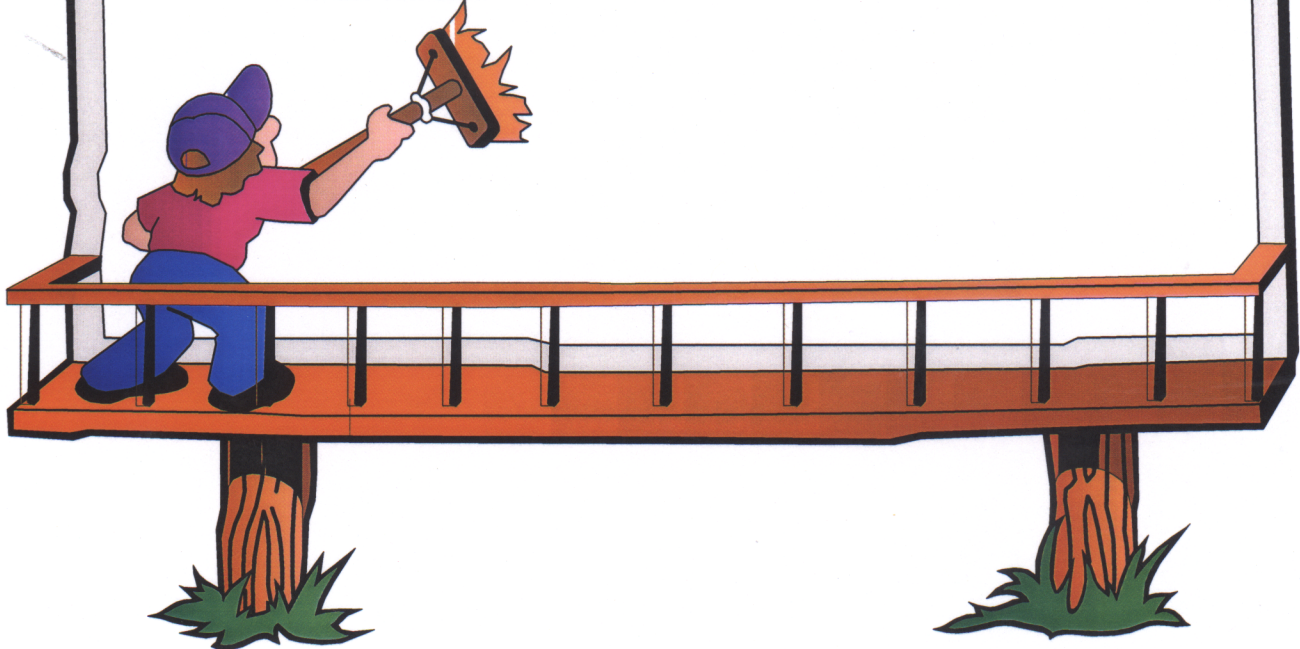


Headquarters Policy Flash

DATE: June 4, 2003
TO: Procurement Directors
FROM: Office of Procurement and Assistance Policy, ME-61
Office of Procurement and Assistance Management

SUBJECT: **Federal Acquisition Circulars (FAC) 2001-14 and Proposed Rule
FAR Part 27 Rewrite in Plain Language**

SUMMARY: This Policy Flash summarizes the final and interim rules discussed in FAC 2001-14 and the plain language rewrite of FAR Part 27, which were published in the Federal Register on May 22, 2003, at 68 FR 28078 and May 28, 2003, at 68 FR 31790, respectively. Contracting personnel should review the details of each item of the FAC and the proposed rule in the full text.



FLASH 2003-14
(June 4, 2003)

A. Federal Acquisition Circular (FAC) 2001-14

The following eight items are in **FAC 2001-14**, summaries for each FAR rule follow the specific item number and effective date. The FAC is available via the Internet at <http://www.acqnet.gov/far>

1. Geographic Use of the Term “United States” (FAR Case 1999-400)

Effective Date: June 23, 2003

This final rule clarifies the use of the term “United States” when used in a geographic sense. As defined in the FAR 2.1, Definitions, the United States includes the 50 States and the District of Columbia. Where a wider area of applicability is intended, the term is redefined in that specific part or subpart of the FAR, or supplemented by listing the additional areas of applicability each time the term is used. This final rule-

- Corrects and updates references to the United States throughout the FAR; and
- Creates a new definition of “outlying areas” of the United States, encompassing all outlying commonwealths, territories, and minor outlying islands.

2. Miscellaneous Cost Principles (FAR Case 2001-029)

Effective Date: June 23, 2003

This final rule published as a proposed rule in the Federal Register at 67 FR 13072, March 20, 2002, is converted to a final rule with changes. This final rule-

- Deletes the cost principle concerning transportation costs; and
- Revised the cost principles concerning cost of money, other business expenses, and deferred research and development costs.

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3. Prompt Payment Under Cost-Reimbursement Contracts for Services (FAR Case 2000-308)

Effective Date: May 23, 2003

Applicability: This final rule applies to cost-reimbursement contracts for services, irrespective of award date, if interim payments requests under such contracts are due on or after December 15, 2000. In no event may agencies pay late payment penalty interest for any delay in payment that occurred prior to December 15, 2000.

This final rule converts, without change, the interim rule published in the Federal Register at 66 FR 53485, October 22, 2001. The interim rule eliminated the prior FAR regulatory guidance and clause prohibiting interest payment as a penalty for late payment of interim finance payments under a cost reimbursement contract. In addition, the interim rule added new regulatory guidance and clause providing for late payment penalty interest whenever an interim payment under a cost reimbursement contract for services is paid more than 30 days after the agency receives a proper invoice from the contractor. In addition, the final rule makes clear that agencies may not pay late payment penalty interest for any delay in payment that occurred prior to December 15, 2000 as published by OMB in the Federal Register at 65 FR 78403, December 15, 2000 and 67 FR 79515, December 30, 2002.

4. Electronic Signatures (FAR Case 2000-304)

Effective Date: June 23, 2003

This final rule amends the FAR to clarify that agencies are permitted to accept electronic signatures and records in connection with Government contracts.

5. Increased Federal Prison Industries, Inc. Waiver Threshold (FAR Case 2003-001)

Effective Date: May 22, 2003

This interim rule amends FAR Part 8, Required Sources of Supplies and Services. The final rule-

- Increases the Federal Prison Industries, Inc.'s (FPI) clearance exception threshold at FAR 8.606(e) from \$25 to \$2,500;
- Eliminates the criterion that requires delivery within 10 days; and

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- Requires that Federal agencies not make purchases from FPI of products on their schedule that are at or below the \$2500 threshold. However, provides that Federal agencies may continue to consider and purchase products from FPI that are at or below \$2500.

6. Past Performance Evaluation of Federal Prison Industries (FAR Case 2001-35)

Effective Date: June 23, 2003

This is a final rule revising FAR Subparts 8.6 and 42.15 to require agencies to evaluate Federal Prison Industries (FPI) contract performance. This rule-

- Permits Federal customers to rate FPI's performance, compare FPI to private sector providers, and give FPI important feedback on previously awarded contracts;
- Provides that this change will give FPI the same opportunity given private sector firms to improve their customer satisfaction, in general, and their performance on delivery, price, and quality, specifically; and
- Provides that the requirements of FAR 8.602, Policy, and 8.605, Clearances, remain unchanged but that the information gathered during past performance may be used to support a clearance request under FAR 8.605.

7. Contract Terms and Conditions Required to Implement Statute or Executive Orders-Commercial Items (FAR Case 2000-009)

Effective Date: June 23, 2003

This final rule amends the FAR to update the clause list regarding commercial items contract terms and conditions required to implement statute or Executive orders. The rule-

- Ensures that required statutes enacted subsequent to FASA that contain civil or criminal penalties or specifically cite their applicability to commercial items are included on the list;
- Deletes any post-FASA items from the list that do not cite a specific applicability to commercial items;

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- Adds the pre-FASA clauses and alternates that were inadvertently left off the list; and
- Adds the date to each clause on the list to identify what revision of the listed clause applies when this clause is added to a contract.

8. Technical Amendments

Effective Date: June 23, 2003

The final rule amends the FAR in order to update references and make editorial changes.

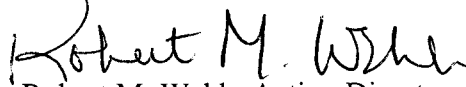
B. Notice of Proposed Rulemaking

The following item was published in the Federal Register on May 28, 2003, at 68 FR 31790. The notice of proposed rulemaking is available via the Internet at <http://www.acqnet.gov/far>

The proposed rule is to amend the FAR to clarify, streamline, and update guidance and clauses on patents, data, and copyrights to provide a more logical presentation of this complex material. In addition, this rulemaking constitutes a rewrite of FAR Part 27 and its associated clauses. Part 27 implements a number of statutes and executive orders pertaining to patents, data, and copyrights.

The rulemaking should be viewed in its entirety in order to formulate substantive comments. The Office of Procurement and Assistance Policy will consolidate DOE comments on this proposed rulemaking. Comments are to be forwarded to Robert Webb no later than July 11, 2003. Robert Webb can be reached on (202) 586-8264 or via the e-mail at robert.webb@pr.doe.gov

Questions concerning this Flash should be directed to Denise Wright at (202) 586-6217 or via e-mail at denise.wright@pr.doe.gov.


Robert M. Webb, Acting Director
Office of Procurement and
Assistance Policy

Attachments

cc:

PPAG Members